

**EMPLOYMENT AGREEMENT
BETWEEN OLD DOMINION UNIVERSITY AND
ROBERT WILDER**

This Agreement describes the revised terms of employment between Robert Wilder ("COACH") and Old Dominion University ("UNIVERSITY"). The agreement reduces the COACH's term of employment as Head Football Coach, a professional faculty position at the UNIVERSITY. This Agreement constitutes the full and complete agreement of the parties. No prior or subsequent written or oral understandings or representations pertaining to the subject matter of this Agreement, including the COACH's previous letter of employment, beginning January 1, 2012, and COACH's previous Deferred Compensation Agreement entered into by the parties on December 15, 2011 and effective as of December 31, 2011, shall be binding upon the parties unless contained herein or set forth in the form of written amendment(s) to this Agreement, executed by both parties prior to becoming effective.

I. TERM OF EMPLOYMENT

- A. The UNIVERSITY will employ COACH as Head Football Coach for a term of approximately five (5) years beginning June 10, 2013 and ending on December 31, 2017, unless extended or sooner terminated as hereinafter provided in this Agreement.
- B. The UNIVERSITY will employ COACH as Head Football Coach for a term of approximately five (5) years as of June 10, 2013 and ending on December 31, 2017, unless extended by agreement of both parties. On or before January 1 of each year, beginning on or before January 1, 2014, COACH shall receive a one-year rollover extension pending a satisfactory annual performance review by the Director of Athletics and acceptance by COACH. Said review shall not be based solely on COACH's won-loss record. The term of this Agreement, as from time to time extended, is hereafter referred to as "the term of this Agreement" or "the term hereof."
- C. Additionally, the parties agree that Agreement will be reviewed every three (3) years to ensure continued equity to each party.
- D. The COACH accepts employment in this position and agrees to faithfully and diligently perform the duties of Head Football Coach, as set forth herein.
- E. At the expiration of the term of this Agreement, both parties understand and agree that the COACH's employment with the UNIVERSITY shall terminate, and that there are no understandings or obligations to continue that employment.
- F. Except as otherwise provided herein, the policies and procedures as described in the Old Dominion University Faculty Handbook and modified or amended by subsequent revisions thereof, are expressly incorporated in and made a part of the terms and conditions of this agreement. Excepting, however, that no policy or procedure relating to annual leave, faculty grievance procedure, notice of non-renewal of contract, or termination of employment (except for financial exigency, or curtailment or discontinuance of a program of study or

department of instruction) shall be applicable to COACH. COACH's employment relationship shall be controlled only by this document; appropriate University policies not specifically excluded herein, State of Virginia Appropriations Act, and other applicable law and policy of the State of Virginia.

II. DUTIES

The COACH is hereby employed by the UNIVERSITY as Head Football Coach with the expectation that COACH assumes responsibility for the academic credibility of student-athletes participating in the football program. Such matters as class attendance, progress toward a degree and graduation rates will be reviewed annually by the Director of Athletics or designee. Moreover, the retention of student-athletes on football scholarships is considered an important part of COACH's responsibility. COACH shall also provide leadership and supervision to ensure that all assistant coaches, staff, student-athletes and other persons associated with the Football program comply with the NCAA constitution, bylaws, rules, regulations, policies and directives. COACH shall immediately report to the Director of Athletics or to the Assistant Athletics Director-Compliance any suspected violation of any of the foregoing constitution, bylaws, rules, regulations, policies or directives. The COACH agrees that he *shall forfeit one-week's base salary* each time one of his assistant coaches or staff commits a major violation of the regulations or bylaws of the NCAA, as determined by the UNIVERSITY, in its sole and reasonable discretion. Other duties and responsibilities shall include the following:

- A. Provide the UNIVERSITY with his most dedicated and conscientious service in the capacity of Head Football Coach and other duties reasonably assigned by the Director of Athletics and consistent with his duties as Head Coach, and perform his duties in a manner consistent with UNIVERSITY rules and regulations, federal and state statutes, conference rules and regulations, NCAA rules and regulations, and within the traditional high standards associated with his profession. COACH shall also complete the Campus Security Authority Training (hereinafter "CSA") within six (6) months of the execution of this Agreement.
- B. In consultation with the Department of Athletics, maintain responsibility for the fiscal and budgetary functions of the football program.
- C. Use his best efforts to ensure that all academic standards, requirements and policies of the UNIVERSITY are observed by him and members of his coaching staff at all times, including those in connection with the recruiting and eligibility of prospective and current student-athletes for the football program.
- D. Conduct himself and the football program at the UNIVERSITY in accordance with the constitution and bylaws of the conference in which the UNIVERSITY competes in football, and in accordance with the constitution and bylaws of the NCAA, all state and federal laws, and the UNIVERSITY's policies and procedures.
- E. Coach and train student-athletes to compete successfully against other Division I college teams in a quality football program.

- F. Use his best efforts to ensure that football assistant coaches, football administrative/support staff, and student-athletes in the football program conduct themselves in a sportsmanlike manner and in other ways that will result in a positive image for the UNIVERSITY both on and off the field.
- G. Maintain and enforce any and all disciplinary policies and drug policies of the UNIVERSITY, the Department of Athletics and the football program.
- H. Use his best efforts to develop and maintain a successful football program that attracts spectator interest and attendance, public support through donations and endowments, and media coverage, and that generates substantial revenue for the UNIVERSITY's Department of Athletics. Such responsibility includes the responsibility to make public appearances, speak on behalf of the football program, speak with the media, and assist in the promotion of ticket sales for the UNIVERSITY's football games.
- I. The UNIVERSITY shall not assign COACH to a position other than Head Football Coach unless agreed upon in writing by the parties hereto.

III. PARTICIPATION IN DECISION-MAKING

The parties recognize that many factors may influence the COACH's ability to perform successfully his duties under this Agreement. Therefore, it is agreed that the COACH will be entitled to participate and have input into the following activities to the extent set forth below:

- A. In order to successfully support the football program, the UNIVERSITY agrees to allow the COACH to assist in raising the necessary funds to support the football program. To that end, the COACH can assist in identifying program needs, establish fundraising goals, and implement plans for achieving those goals.
- B. The COACH shall have the opportunity to provide input into the design and development of any and all facilities owned by the UNIVERSITY that are for the exclusive or partial use of the football program. The COACH can also recommend capital projects and participate in the development and implementation of capital campaigns for football related facilities.
- C. The COACH shall have autonomy to arrange the scheduling for the football program. Before finalizing any scheduling arrangements, the COACH shall submit them to the Director of Athletics for final approval.
- D. Upon COACH's request, UNIVERSITY shall make efforts for funding to be available for any incoming freshman student-athlete to attend the UNIVERSITY either the spring semester if the incoming student athlete graduates high school in December or summer school following his high school graduation in the spring prior to the fall semester in an effort to increase their likelihood of obtaining a degree from UNIVERSITY. UNIVERSITY agrees to engage in consistent communication with COACH regarding the need for certain

upper class student-athletes to attend summer school as well. This will be contingent on the amount of monies available to provide scholarships for summer school.

IV. ASSISTANT COACHES AND SUPPORT STAFF

- A. The COACH shall have the authority to hire and terminate assistant football coaches, subject to the approval of the Director of Athletics, whose approval of such decisions shall not be unreasonably withheld or delayed
- B. COACH shall have the ability to supplement the pay for assistant football coaches through their participation in summer camps; and as part of the bonus structure herein described.
- C. The UNIVERSITY shall provide each full-time NCAA recognized assistant coach the use of a late-model vehicle or a monthly vehicle stipend.
- D. COACH shall be permitted to use his discretionary funds to provide annual development trip(s). COACH shall have the discretion to use these funds to pay for the football coaching staff to attend coaching conventions, clinics and other events designed to promote coaches' professional development pending approval of the Director of Athletics or designee, which shall not be unreasonably withheld.
- E. COACH shall ensure that all current assistant football coaches complete CSA training within six (6) months of the execution hereof; and all newly hired assistants within six (6) months of their employment effective date.

V. COMPENSATION AND BENEFITS

- A. The UNIVERSITY shall pay to the COACH, as salary in consideration for his services as Head Football Coach, a base salary of Two Hundred Ten Thousand Dollars (\$210,000) for the year from June 10, 2013 to June 09, 2014; Two Hundred Twenty Thousand Dollars (\$220,000) for the year from June 10, 2014 to June 9, 2015; and Two Hundred Twenty-nine Thousand Five Hundred Dollars (\$229,500) from June 10, 2015 until June 9, 2016. Base Salary herein shall mean salary funded through the funds appropriated by the Commonwealth of Virginia. Thereafter, the COACH shall be eligible each year during the Term for merit raises and/or salary increases based on an evaluation of his performance by the Director of Athletics, or designee, during the annual salary review periods. The evaluation criteria will be comparable to the criteria used for others who are evaluated by the Director of Athletics, or designee. Any general salary increase approved by the General Assembly of the Commonwealth after September 1, 2013 shall also inure to the COACH'S benefit during the term hereof and be calculated solely on the Base Salary herein. COACH shall also receive a Supplemental Salary during the term hereof. Supplemental Salary herein shall mean funds NOT appropriated by the Commonwealth, but raised from private, non-public sources by the University or its affiliated foundations. The COACH shall receive for the period June 10, 2013 through June 9, 2014 Supplemental Salary of One Hundred Forty Thousand Dollars (\$140,000.00); for the period June 10, 2014 through June 9, 2015, the sum of One Hundred

Eighty Thousand Dollars (\$180,000.00); for the period June 10, 2015 through June 9, 2016, Two Hundred Twenty Thousand Five Hundred Dollars (\$220,500.00). The parties herein will review the financial equity of this Agreement during 2016, and agree that COACH'S Base plus Supplemental Salary will NOT be less than Four Hundred Fifty Thousand Dollars (\$450,000.00) per year after June 9, 2016. Amounts listed in this paragraph are EXCLUSIVE of payments for Media work to COACH.

- B. COACH is entitled to two (2) days of annual leave at the end of each calendar month of service. Any accumulated, but unused, annual leave days not taken prior to June 30th will not be carried forward. It is the responsibility of COACH to schedule the use of accumulated annual leave.
- C. The COACH shall be eligible to participate in all employee-related benefits normally available for University staff, including group family health insurance, group life insurance, and retirement program calculated at the then current base salary. Employment is subject to all employment policies for employees of the UNIVERSITY. The COACH acknowledges that the employee-related benefits provided by the UNIVERSITY are subject to change from time to time by the UNIVERSITY.
- D. The UNIVERSITY shall provide COACH with one (1) late-model, premium vehicle, and a second (2nd) vehicle, if made available by the University or a Program sponsor or supporter, to be used by the COACH'S wife. Nothing herein shall be construed to require the provisioning of the second (2nd) vehicle by the UNIVERSITY, however. In the alternative to the vehicle for the COACH, the UNIVERSITY or COACH may request instead a stipend to cover the cost of leasing the vehicle. The fair value of any personal use of the vehicle will be reported for income tax purposes.
- E. The UNIVERSITY shall provide the COACH with at least six (6) premium tickets to all UNIVERSITY -hosted athletic events on campus.

VI. PERFORMANCE BASED COMPENSATION

- A. COACH shall receive a bonus of Twenty-Five Thousand Dollars (\$25,000) provided he is still employed by the UNIVERSITY as Head Football Coach on January 1, 2014.
- B. Beginning July 1, 2014, COACH is eligible for the following incentive bonuses listed below which are cumulative:
 - i. Participation in the CUSA Conference Championship: Ten Thousand Dollars (\$10,000).
 - ii. Win the CUSA Conference Championship: one (1) month's base salary.
 - iii. Participate in Bowl that is neither a BCS game nor a "Best of Rest" game: Ten Thousand Dollars (\$10,000).

- iv. Participate in BCS game and/or “Best of Rest”: two (2) months’ base salary.
 - v. Participate in Top Four Playoff: One Hundred Thousand Dollars (\$100,000).
 - vi. Win National Championship: Three Hundred Fifty Thousand Dollars (\$350,000).
 - vii. AP National Coach of the Year: Twenty-Five Thousand Dollars (\$25,000).
- C. UNIVERSITY will also pay a “Program Bonus Pool” (hereinafter “Program Pool”), the purpose of which is for the overall support and strengthening of the program:
- i. Participate in a bowl game that is neither a BCS nor Best of the Rest Bowl: One-twenty-fourth (1/24) of then-current salary pool for assistant coaches.
 - ii. Participate in a BCS or Best of the Rest Bowl: one twelfth (1/12) of then current salary pool for assistant coaches.
 - iii. Win National Championship: Two-twelfths (2/12) of then-current salary pool for assistant coaches.
- COACH, with the prior written approval of the UNIVERSITY Athletic Director, will determine the allocation of the Program Pool and distributions will not be necessarily limited to Assistant Coaches.
- D. In no event will any payment due and owing under this section be paid later than forty-five (45) of being served or achieved.

VII. OUTSIDE INCOME AND MEDIA RIGHTS

- A. The COACH will be provided the opportunity to conduct summer football camps at the UNIVERSITY. COACH shall have complete authority over all aspects of football camps and said camps will not be the responsibility of the UNIVERSITY. The COACH shall abide by the rules and policies of the UNIVERSITY in the operation of football camps. COACH may distribute profits from the football camps at his sole discretion.
- B. The COACH will be responsible for appearing and participating in post-game radio programs following each game that is broadcast, up to fifteen (15) one-half hour post game radio programs, and up to twelve (12) weekly hour long call-in radio shows during football season, and up to fifteen (15) Coach's television/online commercials or appearances produced by the athletic department during each football season. As compensation for appearing on these programs, the COACH shall be paid, in addition to his annual salary, the amount of Seventy-Five Thousand Dollars (\$75,000) per season for the two initial seasons covered by this contract and One Hundred Thousand Dollars (\$100,000) for the third season covered by this contract and all subsequent years of the contract unless otherwise negotiated.

- C. In accordance with UNIVERSITY policy and NCAA Bylaw 11.2.2, which may be amended from time to time and are incorporated herein by reference, the COACH shall report annually to the Director of Athletics all athletically-related income received by him from sources outside the UNIVERSITY.

VIII. AUTOMATIC TERMINATION UPON DEATH OR DISABILITY OF COACH

- A. This Agreement shall terminate automatically if the COACH dies or becomes physically or mentally disabled to such an extent that he is unable to perform satisfactorily all duties as described in Section II of this Agreement for a period of ninety (90) consecutive days. If this Agreement is terminated pursuant to this section, the UNIVERSITY shall be relieved of all liabilities and/or obligations under this Agreement following such termination, except that COACH or his estate will continue to receive the greater of the then existing base salary for ninety (90) days or the remainder of the calendar year in which the death or disability occurs.
- B. If this Agreement is terminated pursuant to this section because of death, the COACH's personal representative or other designated beneficiary shall be paid all such death benefits, if any, as may be contained in any benefit plan then in force and due to the COACH as a UNIVERSITY employee.
- C. If this Agreement is terminated due to disability, the COACH shall be entitled to receive any disability benefits to which he is entitled under any long-term disability program in which he is enrolled through the UNIVERSITY.

IX. TERMINATION BY UNIVERSITY FOR CAUSE

- A. This Agreement may be terminated by the UNIVERSITY for "Cause," which shall include the following:
 - 1. Failure to cure a material breach of the duties of the COACH as defined in section II of this Agreement after receiving written notification of such breach and a forty-five (45) day cure period has elapsed.
 - 2. Any major violation or any multiple, repeated or pattern of secondary violations by or in connection with, the Football Program of any NCAA, or conference in which the University is a member university where "multiple, repeated or pattern of secondary violations" means that the same bylaw (or applicable/related rule) is violated more than once in a 12 month period.
 - 3. Dishonesty of the COACH, or of any of his assistant Coaches or staff of which the COACH had reason to know, should have known through exercise of reasonable diligence in the exercise of his duties under this Agreement, or which the COACH condoned, of such a nature that would seriously offend the traditions and ethics of the

UNIVERSITY, or which brings significant discredit to the UNIVERSITY in the UNIVERSITY's reasonable discretion.

4. Any behavior which may involve a breach of law and will result in a substantial negative impact on the program. The COACH is required to maintain the positive reputation of the University and shall not conduct himself in a manner that will negatively impact the program. This includes, but is not limited to, conviction of a crime or a charge of a felony offense, misuse of controlled substances, alcohol overuse, sports gambling, and acceptance of outside gifts.

5. Any of the following:

- i. A knowing or willful violation by the COACH, as determined by the UNIVERSITY, in its reasonable discretion, of any major NCAA regulation or bylaw, any major conference regulation or bylaw, or any major University policy or procedure;
- ii. Any knowing or willful violation, as determined by the UNIVERSITY, in its reasonable discretion, by the COACH's assistant coaches or staff of any major NCAA regulation or bylaw, any major conference regulation or bylaw, or any major UNIVERSITY policy or procedure, which the COACH either knew about *or reasonably should have known about* and did not report to appropriate officials of the UNIVERSITY;
- iii. Any pattern (defined as two or more instances) of knowing or willful violations, as determined by the UNIVERSITY in its reasonable discretion, by the COACH's assistant coaches or staff of any major NCAA regulation or bylaw, any major conference regulation or bylaw, or any major UNIVERSITY policy or procedure.

- B. In the event of a termination under this Section IX, the UNIVERSITY's sole obligation to the COACH shall be payment of his salary and all other compensation accrued to the date of such termination. The UNIVERSITY shall not be liable to the COACH for any collateral business opportunities or other benefits associated with the COACH's position as Head Football Coach, or for any other types of consequential damages.

X. TERMINATION BY THE UNIVERSITY WITHOUT CAUSE: LIQUIDATED DAMAGES

The UNIVERSITY may terminate this Agreement without cause, in which case it shall pay the COACH or his estate damages in lieu of any and all other legal remedies or equitable relief one of the following amounts based on the date of termination:

<u>Date of Termination by UNIVERSITY</u>	<u>Amount</u>
June 10, 2013 – December 31, 2013	\$1,800,000.00
January 1, 2014 – December 31, 2014	\$1,600,000.00
January 1, 2015 – December 31, 2015	\$1,400,000.00
January 1, 2016 – December 31, 2016	\$1,200,000.00

If UNIVERSITY terminates this Agreement without cause after December 31, 2016, it shall pay the COACH or his estate damages in an amount equal to the total compensation that COACH would have received had he not been fired without cause. Any such payments shall be made on a monthly basis, during the remaining Term of the Agreement. The UNIVERSITY shall not be liable to the COACH for any collateral business opportunities or other benefits associated with his position as Head Football Coach. The parties have bargained for this damages provision, giving consideration to the fact that this is an agreement for personal services, the termination of which by the UNIVERSITY prior to its natural expiration could cause the COACH to lose certain benefits, supplemental compensation or outside compensation relating to his employment at the UNIVERSITY, which damages are difficult to determine with certainty.

XI. TERMINATION BY THE COACH FOR CAUSE

- A. The COACH may terminate this Agreement for "Cause", which shall include the following:
1. The UNIVERSITY's failure to cure a material breach of this Agreement after receiving written notification of such breach and a reasonable cure period has elapsed.
 2. The UNIVERSITY's failure to field a football program.
- B. In the event the COACH terminates for Cause, his sole obligation to the UNIVERSITY shall be to provide written notice of the date on which this Agreement shall terminate.

XII. TERMINATION BY THE COACH WITHOUT CAUSE: LIQUIDATED DAMAGES

The COACH may terminate this Agreement without cause by giving written notice to the UNIVERSITY. In the event the COACH terminates this Agreement without cause the COACH shall pay the UNIVERSITY one of the following amounts based on the date of termination:

<u>Date of Termination by COACH</u>	<u>Amount</u>
June 10, 2013 – December 31, 2013	\$1,000,000.00
January 1, 2014 – December 31, 2014	\$800,000.00
January 1, 2015 – December 31, 2015	\$600,000.00
January 1, 2016 – December 31, 2016	\$450,000.00

If this Agreement is terminated pursuant to this section, the actual damages suffered by the UNIVERSITY are difficult to determine. Yet, the UNIVERSITY should be compensated its losses as nearly as possible. Being that both parties recognize that the UNIVERSITY's damages are difficult to determine with exactness, the parties agree that the sum due the UNIVERSITY, as determined above, is reasonable and not out of proportion to its actual losses. This sum will be in lieu of the University's losses for such things as, by way of illustration; costs associated with recruiting, scouting, loss of gate receipts, and the like.

Moreover, the parties, recognizing the complex nature of an NCAA Division I athletic program, agree that the stipulated amount of damages is intended to compensate the University for the losses that arise from an unscheduled transition in such athletic program. The payment of damages, as provided above, is not intended as a penalty. The parties agree that the payments set forth in this section, while not an accurate measure of the UNIVERSITY's damages, are reasonable and appropriate compensation for the injury it would suffer by COACH's premature termination of this contract. COACH hereby waives any defense to the validity of this damages provision on the grounds that such damages are void as penalties or are not reasonably related to actual damage.

XIII. TERMINATION BY BOTH PARTIES

This Agreement may be terminated at any time upon mutual agreement of both parties.

XIV. MERGER

This Agreement constitutes the full and complete agreement of the parties. No prior or subsequent written or oral understandings or representations pertaining to the subject matter of this Agreement shall be binding upon the parties unless contained herein or set forth in the form of written amendment(s) to this Agreement, executed by both parties prior to becoming effective.

XV. INTERPRETATION AND APPLICABLE LAW; VENUE

This Agreement is made under and shall be interpreted according to the laws of the Commonwealth of Virginia. Any rule to the effect that an agreement shall be construed against the party drafting it shall have no application to this Agreement. Any unresolved disputes involving the Agreement will be adjudicated in the federal or state courts of Virginia.

XVI. NOTICES

Any notice required or permitted to be given under this Agreement shall be sufficient if in writing, and if sent by registered or certified mail to his residence in the case of the COACH, or to the Director of Athletics' office in the case of the UNIVERSITY.

XVII. BENEFIT

The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the UNIVERSITY, its successors and assigns, and the COACH, his heirs, executors, administrators and legal representatives. Nothing herein shall be construed as a waiver of the UNIVERSITY's sovereign immunity.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

OLD DOMINION UNIVERSITY

By: Camden Wood 8/5/13
Title: Athletic Director

Robert Wilder
ROBERT WILDER

Execution Date: 7/29/13